

HOUSE BILL REPORT

ESSB 6501

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to the creation of the Washington bioenergy assistance program.

Brief Description: Creating the Washington bioenergy assistance program.

Sponsors: Senate Committee on Water, Energy & Environment (originally sponsored by Senators Rockefeller, Poulsen, Morton, Honeyford, Fraser, Regala, Kohl-Welles, Rasmussen, Kline and Keiser; by request of Governor Gregoire).

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/21/06 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by House Committee)

- Establishes an Energy Freedom Program within the Department of Community, Trade and Economic Development.
- Authorizes a 13-member Energy Freedom Board (Board) to award low-interest loans to political subdivisions for the research and development of new and renewable energy sources, including infrastructure and facilities.
- Authorizes the Board to award grants to Washington public research institutions, and to award a limited amount of grant funding to political subdivisions.
- Creates the Energy Freedom Account within the State Treasury.
- Authorizes a transfer of up to \$25 million from the Public Utility Tax into the Energy Freedom Account.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: Do pass as amended. Signed by 10 members: Representatives Morris, Chair; Kilmer, Vice Chair; Haler, Assistant Ranking Minority Member; Ericks, Hankins, Hudgins, Nixon, P. Sullivan, Takko and Wallace.

Staff: Kara Durbin (786-7133).

Background:

State Loan Programs

According to a 2002 study by the National Renewable Energy Laboratory, there are at least 21 active loan programs in 18 states that provide low-cost financing for renewable energy. Some programs are funded by revolving loan funds that were established with petroleum overcharge settlements, while others are funded through annual appropriations, the sale of bonds, or air-quality noncompliance penalty fees. Total funding for state loan programs ranges from \$200,000 to \$200 million per year.

Public Utility Tax

Public and privately-owned utilities are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. The tax rate depends on the utility classification. Utility classifications include: (1) distribution of water; (2) generation/distribution of electrical power; (3) telegraph companies, distribution of natural gas, and collection of sewerage; (4) urban transportation and watercraft vessels under 65 feet in length; and (5) railroads, railroad car companies, motor transportation, and all other public service businesses. Most of the PUT is deposited in the State General Fund. Certain receipts are earmarked for the Public Works Assistance Account.

Summary of Amended Bill:

The Energy Freedom Program is established. The stated legislative purpose of the Energy Freedom Program is to stimulate strategic investment in facilities, infrastructure, technologies, and research and development that will advance Washington's move towards energy independence.

Energy Freedom Board

The Energy Freedom Board (Board) is created. Membership of the Board consists of 13 individuals: the director of the Department of Agriculture or the director's designee; the director of the Department of Community, Trade and Economic Development (DCTED) or the director's designee from the DCTED's energy policy division; four members of the Legislature who serve on committees with jurisdiction over energy issues; and seven members appointed by the Governor, including one recognized expert in renewable energy, one representative from Washington State University, one Washington State grower, one producer of alternative fuels, one public fleet manager, one public buildings manager, and one sustainable society advocate. Staff support for the Board must be provided by DCTED.

Powers and Duties of the Board

The Board is authorized to accept gifts, grants, or loan of funds or property from any source, provided that accepting the funds is not a conflict of interest. The Board will develop a competitive process to solicit proposals for potential funding. Financial assistance may be awarded by the Board for any of the following types of projects and activities:

- research and development of new and renewable energy and biofuel sources, including

biomass, solar, and wind power;

- renewable energy and biofuel development infrastructure and facilities;
- research and development to develop markets for alternative fuel byproducts; and
- loans for small commercial energy audits and retrofits.

The Board will establish a peer review committee to review all competitive grant proposals submitted by Washington public research institutions.

Applicants for loans and grants must specify deliverables, including evidence that a proposed project will result in a positive net energy output, if applicable. Applications must be prioritized based on the following criteria:

- the extent to which the project will contribute to the establishment of a viable bioenergy production capacity in Washington;
- the benefits to Washington's agricultural producers;
- the extent to which the project will help conserve energy and reduce dependence on petroleum fuels and imported energy;
- the extent to which the project will reduce air and water pollution;
- the number and quality of jobs, as well as the economic benefits, created by the project;
- the extent to which the investment shows a direct link to commercialization either by indirectly supporting the commercialization of bioenergy intellectual property into a commercialized project, or by directly assisting in moving a commercially viable project into the marketplace for use by Washington citizens; and
- the extent to which private funds have been leveraged.

The Board may approve loans in an amount of up to \$5 million, provided that each loan does not constitute more than 50 percent of the total project funding. The Board may award grants to political subdivisions to the extent that a loan is not feasible, provided that no more than 10 percent of all financial assistance awarded by the Board to political subdivisions are in the form of grants. The Board may also award grants to Washington public research institutions.

Upon receiving financial assistance from the Board, political subdivisions must enter into appropriate contracts with industry partners involved in the use of the facilities, infrastructure, or equipment.

The Board may suspend or cancel its loans or grants if a recipient fails to make reasonable progress towards completing a project, or the recipient has made misrepresentations in any information furnished to the Board in connection with the project.

Consistent with Article VIII, sections 5 and 7 of the Washington Constitution, the credit of the state, as well as the credit of counties, cities, towns, and other municipal subdivisions may not be given or loaned to an individual or company in the administration of grants and loans under this Act.

Energy Freedom Account

The Energy Freedom Account (Account) is created in the State Treasury. Funds from the Account may only be spent after appropriation. Expenditures may be used only for loans and grants to political subdivisions for renewable energy and biofuel development projects and

activities.

The Legislature may authorize a transfer of up to \$25 million from the Public Utility Tax for Fiscal Year 2006 into the Account.

The bill is null and void unless funded in the budget by June 30, 2006. The entire Act expires on June 30, 2016.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill strikes all of the provisions of the Senate bill and replaces them with the provisions of Engrossed Third Substitute House Bill 2939, the Energy Freedom Program. Under the amended bill, the 13-member Energy Freedom Board, rather than the Department of Agriculture, will make loan and grant decisions. Eligibility for grant or loan funds is extended to include research and development of new and renewable energy and biofuel sources, renewable energy and biofuel development facilities and infrastructure; research and development to develop markets for alternative fuel byproducts; and loans for commercial energy audits and retrofits. The amended bill contains fewer criteria that must be met before a loan or grant may be awarded. Criteria under the amended bill include contribution to viable bioenergy production; benefits to Washington agriculture; conservation of energy and reduction of dependence on foreign fuel; assistance in commercialization of bioenergy projects; environmental benefits; and job creation. The Board is authorized to award loans of up to \$5 million per application. Grants to political subdivisions are limited to 10 percent of all financial assistance awarded by the Board. Loans are limited to 50 percent of the total project funding.

Appropriation: None.

Fiscal Note: Available on substitute bill. Fiscal note requested on engrossed substitute on February 21, 2006.

Effective Date of Amended Bill: The bill takes effect on July 1, 2006. However, the bill is null and void unless funded in the budget.

Testimony For: This is one of two interlocking requests by Governor Gregoire. This bill is intended to promote the supply side of the equation to ensure we have adequate in-state facilities for crushing, storing and distribution of biofuel crops. This is an effort to diversify our sources of fuel, to have alternatives to petroleum fuel, and to stimulate Washington agriculture. This bill departs from the House version in that it is strictly limited to assistance and loans. Another difference is that the Department of Agriculture will be administering it, which makes sense since it will be the agricultural community that will be the primary participants.

We prefer the Senate bill; it is an effective and efficient method. However, we also like the flexibility of House Bill 2939 because it allows for loans and grants. Grants for projects, such as the feasibility of a mobile crusher, would be very helpful. These bills depend on the

farmers growing the crops. The conversation on these various bioenergy assistance programs is ongoing. We prefer the Senate bill because it is more tightly focused on the biofuels industry; it is more targeted.

(With concerns) We have concerns over this money going to political subdivisions rather than directly to farmers and farming communities. We have other programs in existence that fund projects that are run on private property. These seemingly violate the State Constitution with no problems. Farmers can't afford to lose the summer construction season; this money needs to be available right away

Testimony Against: None.

Persons Testifying: (In support) Senator Rockefeller, prime sponsor; Jay Gordon, Washington State Dairy Federation; and Matt Steuerwalt, Governor's Office.

(With concerns) Chris Cheney, Washington Fryer Commission and Hop Growers of Washington.

Persons Signed In To Testify But Not Testifying: None.